

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

ONSTREAM MEDIA CORPORATION,

Plaintiff,

v.

FACEBOOK INC.,

Defendant.

Case No. 1:20-CV-00214-ADA

Jury Trial Demanded

[PROPOSED] AGREED SCHEDULING ORDER

On April 29, 2020, the Court conducted a conference in the above-encaptioned case. All parties appeared through counsel. As a result of that hearing, and pursuant to Rule 16, Federal Rules of Civil Procedure, the Court **ORDERS** that the following schedule will govern deadlines up to and including the trial of this matter:

Deadline	Item
5/6/2020	Plaintiff serves preliminary infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (i.e. the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.
5/13/2020	Deadline for Motions to Transfer.

7/15/2020	Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s), and (3) summary, annual sales information for the accused product(s) for the two years preceding the filing of the Complaint, unless the parties agree to some other timeframe.
7/29/2020	Parties exchange claim terms for construction.
8/12/2020	Parties exchange proposed claim constructions.
8/19/2020	Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall also provide a summary of the witness's expected testimony including the opinions to be expressed and a general description of the basis and reasons therefore. A failure to summarize the potential expert testimony in a good faith, informative fashion may result in the exclusion of the proffered testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.
8/26/2020	Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.
9/2/2020	Parties file Opening claim construction briefs, including any arguments that any claim terms are indefinite.

9/23/2020	Parties file Responsive claim construction briefs.
10/7/2020	Parties file Reply claim construction briefs.
10/14/2020	Parties submit Joint Claim Construction Statement. In addition to filing, the parties shall jointly submit, via USB drive, cloud-storage, or email to the law clerk pdf versions of all as-filed briefing and exhibits. Absent agreement of the parties, the Plaintiff shall be responsible for the timely submission of this and other Joint filings.
11/13/2020	<i>Markman</i> Hearing at 9:00 a.m.
11/20/2020	Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a).
12/23/2020	Deadline to add parties.
1/15/2021	Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to seasonably amend if new information is identified after initial contentions.
2/5/2021	Deadline to amend pleadings. A motion is not required unless the amendment adds patents or claims.
6/11/2021	Close of Fact Discovery.
6/18/2021	Opening Expert Reports.
7/14/2021	Rebuttal Expert Reports.
8/6/2021	Close of Expert Discovery.

8/13/2021	Deadline to meet and confer to discuss narrowing the number of claims asserted and prior art references at issue. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.
8/20/2021	Dispositive motion deadline and <i>Daubert</i> motion deadline.
9/3/2021	Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).
9/21/2021	Serve objections to pretrial disclosures/rebuttal disclosures.
9/28/2021	Serve objections to rebuttal disclosures and File Motions <i>in limine</i> .
10/5/2021	File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i>
10/12/2021	Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .
3 business days before Final Pretrial Conference	File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .
TBD	Final Pretrial Conference. The Court expects to set the Pretrial Conference within 2-4 weeks of the trial date.
TBD	Jury Selection/Trial. The Court expects to set these dates at the conclusion of the <i>Markman</i> Hearing.

Dated: _____

ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE